

IN ADDITION TO ANY DUTIES SET FORTH ELSEWHERE, EACH SAFETY INSPECTOR SHALL BE RESPONSIBLE FOR ENFORCEMENT OF SAFETY CODES IN CONSTRUCTION AND ANY OTHER HAZARDOUS INDUSTRY IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, §§ 30(b) through (f)(1), (g), (h), and (j) and 44(b) and the first sentence of § 49, the second sentence of § 49 as that sentence referred to the duties of the Safety Engineering and Education Service, and the fourth sentence of § 49 as that sentence related to the duty of safety inspectors.

In subsection (b)(2) of this section, the power to "pass an order" is substituted for the former power to "compel obedience by proceedings for contempt", to clarify that the court passes its own order. Thus, proceedings for contempt would result from a failure to comply with the court order.

Subsection (i)(2) of this section is revised to require the Commissioner to seek appropriate relief. Former Art. 89, § 30(j)(1) stated "[t]he Commissioner shall investigate for evidence ... and, if evidence of such violation is found at any site, to seek appropriate relief ...". Even though the former provision was grammatically incorrect, the Labor and Employment Article Review Committee believed that the General Assembly intended to impose a duty on the Commissioner, in light of the word "shall" at the beginning of the provision. The Committee calls this revision to the attention of the General Assembly.

In subsection (i)(2) of this section, the reference to "Subtitle 7" is substituted for the former reference to "§§ 40 and 41 of [Article 89]", even though Subtitle 7 also revises parts of other sections, in light of the limitation to "appropriate relief".

In subsection (m) of this section, the introductory language "[i]n addition to any duties set forth elsewhere", is added to clarify that subsection (m) is not an exhaustive account of the duties of a safety inspector.

The Labor and Employment Article Review Committee notes, for consideration by the General Assembly, that former Art. 89, § 30(b) allowed issuance of subpoenas only for the production of "papers, books, documents [and] records". Comparable provisions elsewhere in the Code use the broader word "evidence", instead of a list of specific types of evidence. Indeed, the provisions of former § 30(b) on proceedings to enforce a subpoena referred to a "refusal ... to produce evidence". The General Assembly may wish to expand subsection (b)(1) of this section.

The Committee also notes that former Art. 89, § 30(b) provided venue where the "person ... resides or is then present". The General Assembly may wish to clarify subsection (b)(2) of this section, by stating the period of time to which "then" refers and the place where persons other than individuals "resid[e]".